

Protective Orders

*A Guide for Victims of
Stalking or Serious Bodily Injury
in Virginia*



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Victims Services Section

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This brochure is intended to provide information regarding protective orders for victims of stalking or crimes resulting in serious bodily injury. It contains only general information. The situation for each individual is different, and there are many exceptions. Protective orders can provide you with legal protection, but they cannot necessarily protect you from a bullet or a knife. To protect yourself from a violent act, you should develop and follow a safety plan. It is important to get further information from your domestic violence service agency, victim/witness program, sexual assault service agency, staff of the District Court Clerk's Office and/or from staff of the Juvenile and Domestic Relations District Court Intake Officer in your area. To obtain their contact information, please contact the **toll free Statewide Domestic Violence and Sexual Assault Hotline at 1-800-838-8238 or the Virginia Crime Victim Assistance INFO-LINE at 1-888-887-3418.**

What is a Protective Order?

It is a legal order issued by a magistrate or a judge to protect one person from physical abuse or threatening behavior by another. A protective order can be issued in cases of stalking, crimes resulting in serious bodily injury, and domestic violence to protect the health and safety of an abused person and his/her family or household members.

Protective orders covering victims of stalking and crimes resulting in serious bodily injury are different than protective orders covering victims of family violence. The two most important differences are:

- A warrant for the arrest of the abuser must be issued before a stalking/serious injury protective order can be issued.
- A stalking/serious injury protective order may help to protect you from individuals that cannot be covered by family abuse violence protective orders. For example, someone you date who does not live with you or a stranger or acquaintance that stalks or seriously injures you.

What Is Stalking?

A stalker is any person who, on more than one occasion, engages in conduct directed at another person with the intent to place, or when he/she knows or reasonably should know, that the conduct places that other person or that other person's family or household members in reasonable fear of death, criminal sexual assault, or bodily injury.

The stalker DOES NOT have to be a family or household member for you to be eligible for a Stalking/Serious Injury Protective Order.

If you are a victim of stalking, please also refer to the brochure, "Stalking: A Guide for Victims."

When can a Stalking/Serious Injury Protective Order be Issued?

Generally, if a victim or a law enforcement officer testifies to a judge or magistrate that the victim is being or has been stalked, or has suffered serious bodily injury due to a crime, and the judge or magistrate finds 1) that there is danger of further crimes and 2) a warrant for the arrest of the abuser has been issued, then a protective order can be issued to protect you and members of your family/household.

Who are Family or Household Members?

"Family or household members" include: a spouse or ex-spouse, whether or not they live together; parents, children, step-parents, step-children, siblings, half-siblings, grandparents, and grandchildren, whether or not they live together; in-laws, who live in the same home; co-habitants and those who have co-habited in the past year and any children of either of them living in the same home; and persons who have a child in common, whether or not they have been married or live together.

The Different Kinds of Stalking/Serious Injury Protective Orders

- Emergency Protective Order—Stalking/Serious Injury
- Preliminary Protective Order—Stalking/Serious Injury
- Final Protective Order—Stalking/Serious Injury

Emergency Protective Order (EPO)—Stalking/Serious Injury

What can an EPO do? An EPO ***may protect your health and safety by:*** (1) legally ordering the abuser to

stop the violence or stalking; (2) ordering the abuser to not contact you or members of your family or household. This may include ordering the abuser to stop contacting you at home, at work, by phone, or by email; and/or (3) other conditions necessary to prevent stalking or crimes which may result in injury to you or your property.

What do I have to do? You, or a law enforcement officer (police officer or sheriff's deputy), must go to a magistrate's office and ask for a warrant for the abuser's arrest as soon as possible after you have been stalked or after you have been seriously injured by the abuser. A magistrate is an officer of the court that can issue protective orders and warrants. If the warrant is obtained, ask the magistrate to give you a Stalking/Serious Injury EPO. ***You are not eligible for a Stalking/Serious Injury EPO until a warrant has been obtained.***

Where do I get an EPO? You can ask a law enforcement officer or a magistrate for a Stalking/Serious Injury EPO. A law enforcement officer can call a magistrate or a judge for a warrant and a Stalking/Serious Injury EPO if they believe that stalking or a crime resulting in serious injury has occurred and will probably occur in the near future. You can also request a Stalking/Serious Injury EPO in person at the Office of the Magistrate or the General District Court Clerk's Office in the locality in which the stalking or crime resulting in serious injury occurred. If the EPO is granted, you will be given a copy of the protective order. A law enforcement officer will give the abuser a copy of the protective order so that he/she is aware of the protective order's conditions, and the order will then be considered "in effect."

How long does it last? An EPO lasts for ***72 hours after issuance or until 5:00 p.m. on the next scheduled court day***, whichever is later. If you want your protective order to continue, you should go to the Intake office of the General District Court Clerk's Office and ***petition for a Preliminary Protective Order before the EPO expires.***

Preliminary Protective Order (PPO)—Stalking/Serious Injury

What can a PPO do for me? A PPO ***may protect your health and safety by:*** (1) legally ordering the abuser to stop the violence or stalking; (2) ordering the abuser to not contact you or members of your family or household. This may include ordering the abuser to stop contacting you at home, at work, by phone, or by email; and/or (3) other conditions necessary to prevent stalking or crimes which may result in injury to you or your property.

What do I have to do? You must go to a magistrate's office and ask for a warrant for the abuser's arrest as soon as possible after you have been stalked or after you have been seriously injured by the abuser. **You must obtain a warrant for the arrest of the abuser to be eligible to obtain a Stalking/Serious Injury PPO.** You must also obtain a PPO within a short time after you have been stalked or seriously injured. You do not have to have an EPO to get a PPO. The abuser does not have to be at the PPO hearing.

Where do I get one? To ask (petition) for a Stalking/Serious Injury PPO, go to the General District Court Clerk's Office in the locality in which the stalking or crime resulting in serious injury occurred. A judge will decide if the Preliminary Protective Order will be granted, based on your sworn statement.

How long does it last? The PPO lasts until a hearing is held. The law requires that a hearing be held within 15 days of the issuance of the PPO, unless the court allows more time. At the initial PPO hearing, a date for a hearing on the final Protective Order is set.

If the PPO is granted, you will be given a copy of the protective order. A law enforcement officer will give the abuser a copy of the protective order so that he/she is aware of the protective order's conditions, and the order will then be considered "in effect."

Protective Order (PO)— Stalking/Serious Injury

What can a PO do for me? A final PO **may protect your health and safety by:** (1) legally ordering the abuser to stop stalking you or committing crimes which may result in injury to you or your property; (2) ordering the abuser to not contact you or members of your family or household. This may include ordering the abuser to stop contacting you at home, at work, by phone, or by email; and/or (3) other conditions necessary to prevent stalking or crimes which may result in injury to you or your property.

What do I have to do? You must attend the Protective Order hearing, which is usually scheduled at the time of your initial Preliminary Protective Order hearing. The judge will issue a subpoena for the abuser to be at the PO hearing. Both you and the abuser will be asked to describe what happened.

Where do I get one? The PO hearing will be held at the General District Court in the locality in which the stalking or crime resulting in serious injury occurred.

How long does it last? A Protective Order **may last up to two years.**

Stalking/Serious Injury Protective Orders are Free

There is no charge for petitioning for a protective order, filing copies of a protective order, or having the order served on the abuser.

Do I Need Legal Representation for a Stalking/Serious Injury Protective Order?

No. You do not need an attorney to file for a Stalking/Serious Injury Protective Order. However, there are some free legal services available for low-income victims who would like assistance in obtaining protective orders. Local legal aid offices and victim/witness programs are among the agencies which assist victims in obtaining protective orders. To find out more about the services available in your area, please contact the **toll free Statewide Domestic Violence and Sexual Assault Hotline at 1-800-838-8238 or the Virginia Crime Victim Assistance INFO-LINE at 1-888-887-3418.**

Do I have to Press Charges to get a Stalking/Serious Injury Protective Order?

Yes. A Stalking/Serious Injury Protective Order may only be issued after a judge or magistrate has issued a warrant for the arrest of the abuser. If the abuser is convicted of violating a protective order, he or she must serve at least some time in jail. Additionally, the court must issue a new protective order.

Is a Stalking/Serious Injury Protective Order from Another State Valid in Virginia? If I go to Another State will my Virginia Stalking/Serious Injury Protective Order be Valid in that State?

The answer to both questions is yes. Federal Law requires states to enforce each other's protective orders. To prevent confusion or delay in enforcing the order by law enforcement, you may want to register a certified copy of your order with the Juvenile and Domestic Relations District Court in the city or county where you will be visiting or residing. However, you should be aware that such registries are a matter of public record, and the abuser could find out what area you are living in, by looking at the registry.

How to Make Sure Stalking/Serious Injury Protective Orders Work for You

- Follow all the conditions and terms stated in your protective order.
- Go to all the scheduled hearings
- Report any violations of the protective order to law enforcement immediately
- Carry a copy of the protective order with you at all times and show it to law enforcement if it is violated.
- Avoid deliberate contact with the abuser.
- Develop a safety plan with your domestic violence or sexual assault service agency or victim/witness program.

Summary

Protective orders are a valuable tool that victims of stalking or crimes resulting in serious injury can use to help protect them from harm. However, victims of stalking or crimes resulting in serious injury should also develop their own personal safety plans. If you have questions about your options or need help, please contact the **toll free Statewide Domestic Violence and Sexual Assault Hotline at 1-800-838-8238 or the Virginia Crime Victim Assistance INFO-LINE at 1-888-887-3418**. If you would like to get copies of related brochures, including *“Stalking: A Guide for Victims,” “An Informational Guide for Victims of Domestic Violence in Virginia: Understanding the Legal Process,”* and/or *“Protective Orders: A Guide for Victims of Domestic Violence,”* you can download the information from the Virginia Department of Criminal Justice Services website at www.dcjs.virginia.gov/victims/resources.cfm or contact the Victims Services Section of the Virginia Department of Criminal Justice Services at (804) 371-6509.

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